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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/809,503

03/26/2004

Takaaki Suzuki

2004\_0476

8598

513 7590 09/26/2008

WENDEROTH, LIND & PONACK, L.L.P.

2033 K STREET N. W.

SUITE 800

WASHINGTON, DC 20006-1021

EXAMINER

TAYLOR, JOSHUA D

ART UNIT

PAPER NUMBER

2623

MAIL DATE

DELIVERY MODE

09/26/2008

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/809,503	<b>Applicant(s)</b> SUZUKI, TAKAAKI	
	<b>Examiner</b> JOSHUA TAYLOR	<b>Art Unit</b> 2623	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 18 April 2008.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-5 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-5 is/are rejected.
- 7) ☒ Claim(s) 3-5 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 26 March 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \*    c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)            | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. _____                                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>8/14/2008</u> .   | 6) <input type="checkbox"/> Other: _____                          |

**DETAILED ACTION*****Double Patenting***

The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the “right to exclude” granted by a patent and to prevent possible harassment by multiple assignees. A nonstatutory obviousness-type double patenting rejection is appropriate where the conflicting claims are not identical, but at least one examined application claim is not patentably distinct from the reference claim(s) because the examined application claim is either anticipated by, or would have been obvious over, the reference claim(s). See, e.g., *In re Berg*, 140 F.3d 1428, 46 USPQ2d 1226 (Fed. Cir. 1998); *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) or 1.321(d) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent either is shown to be commonly owned with this application, or claims an invention made as a result of activities undertaken within the scope of a joint research agreement.

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

Claims 1 and 2 provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claim 1 and 3 of copending Application No. 10/809,504. Although the conflicting claims are not identical, they are not patentably distinct from each other for the following reasons.

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

In claim 1 of the instant application, what is claimed is “a signal processing circuit for use in a broadcast receiving apparatus for receiving a broadcast signal, the broadcast receiving apparatus including a tuning request storage section, the signal processing circuit comprising:

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a tuning request reception section for receiving an issued tuning request;  
a tuning process section for performing a tuning process for the broadcast signal corresponding to the issued tuning request, wherein, if at least one tuning request is issued during the tuning process, the tuning process section performs a next tuning process corresponding to one of the at least one tuning request stored in the tuning request storage section during the tuning process;  
and a tuning request erasure section for erasing, at a predetermined point in time, the at least one tuning request stored in the tuning request storage section during the tuning process, wherein the tuning request received by the tuning request reception section is stored to the tuning request storage section.”

In claim 1 of U.S. Application Number 10/809,504, what is claimed is " A broadcast receiving apparatus for performing a tuning process corresponding to a tuning request from an application, comprising: a tuning request storage section for storing the tuning request from the application; a tuning process section for performing the tuning process corresponding to the tuning request, wherein, if at least one tuning request is issued during the tuning process, the tuning process section performs a next tuning process corresponding to one of the at least one tuning request stored in the tuning request storage section during the tuning process; and a tuning request erasure section for erasing the at least one tuning request stored in the tuning request storage section during the tuning process, wherein, for the at least one tuning request stored in the tuning request storage section, the result of the corresponding tuning process is notified to the application which issued the at least one tuning request.”

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The only significant difference between these two claims is that rather than “a broadcast receiving apparatus,” applicant claims in the instant application “a signal processing circuit for use in a broadcast receiving apparatus.” Because it would have been obvious to one skilled in the art at the time of the invention to assume that a signal processing circuit would have been necessary in this broadcast receiving apparatus, these claims are not patentably distinct from one another.

In claim 2 of the instant application, what is claimed is “the signal processing circuit” according to claim 1, wherein the tuning request erasure section erases the at least one tuning request stored in the tuning request storage section at the beginning of the tuning process.”

The rejection should be obviousness type double patenting.

In claim 3 of U.S. Application Number 10/809,504, what is claimed is “the broadcast receiving apparatus according to claim 2, wherein the tuning request erasure section erases the at least one tuning request stored in the tuning request storage section at the beginning of the next tuning process.”

Again, the only significant difference between these two claims is that rather than “a broadcast receiving apparatus,” the applicant claims in the instant application “a signal processing circuit for use in a broadcast receiving apparatus.” For the same reasons as cited for claim 1, these claims are not patentably distinct.

Claims 3-5 are objected to as being dependent on rejected claim language.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to JOSHUA TAYLOR whose telephone number is (571)270-3755.

The examiner can normally be reached on 8am-5pm, M-F, EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Vivek Srivastava can be reached on (571) 272-7304. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Josh Taylor/

Examiner, Art Unit 2623

/Vivek Srivastava/

Supervisory Patent Examiner, Art Unit 2623